



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1996

Mr. James R. Howell
General Counsel
Texas State Treasury
P.O. Box 12608
Austin, Texas 78711-2608

OR96-0489

Dear Mr. Howell:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 38992.

The Texas State Treasury (the "Treasury") received a request for various categories of information. You assert that the Treasury's draft response to the State Auditor's draft report is excepted from required public disclosure based on sections 552.111 and 552.116 of the Government Code. You enclosed for our review a copy of the draft report.¹

Section 552.111 of the Government Code excepts from required public disclosure:

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.*

¹As you raise no exception to their release, we assume you have released to the requestor all other information that is responsive to the request.

This office has determined that section 552.111 protects drafts of documents because they necessarily represent the advice, opinion, and recommendation of the drafter as to the form and content of the final document. *See* Open Records Decision No. 559 (1990). We therefore conclude that the Treasury may withhold from required public disclosure the draft response to the State Auditor's draft report pursuant to section 552.111 of the Government Code.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 38992

Enclosures: Submitted documents

cc: Mr. Carlos Sanchez
Fort Worth Star-Telegram
1005 Congress Avenue, Suite 920
Austin, Texas 78701
(w/o enclosures)

²Having determined that the Treasury may withhold the draft report from disclosure based on section 552.111, we need not address your section 552.116 claim.